

DUNKERN, et al.  
USSN 10/590,992

The Examiner has indicated that claims 21-28 are subject to election because the species contained therein are deemed to have a lack of unity "because they are not so linked as to form a single inventive concept under PCT Rule 13.1".

### PROVISIONAL ELECTION

Applicants provisionally elect the following "species" for search purposes only:

PDE5 inhibitor: Sildenafil

Indication: Sepsis associated encephalopathy

Claims 21-28 are readable on the provisionally elected species.

### TRAVERSAL

Applicant respectfully traverses the Examiner's institution of a requirement for election of species.

First, the election requirement is traversed because unity of invention exists between the chemical species presently claimed. Each chemical species are inhibitors of a very specific phosphodiesterase, namely PDE5. A complete and thorough search for the provisionally elected species set forth above would require searching the art areas appropriate to all other PDE5 inhibitors. Further, unity of invention exists between the specific disorders claimed in present claim 21. Each disorder falls under the scope of "impairment or dysfunction of cerebral vascular reactivity". Since a search of the subject matter of the provisionally elected species and all other subject matter contained in this application would be coextensive, it would not be a serious burden upon the Examiner to conduct a search of all subject matter contained in this application.

DUNKERN, et al.  
USSN 10/590,992

Furthermore, applicants have paid a filing fee for an examination of all the claims in this application. If the Examiner refuses to examine the full scope of claims paid for when filing this application and persists in requiring applicants to file divisional applications for each of the groups of claims, the Examiner would essentially be forcing applicants to pay duplicative fees for the non-elected or withdrawn claims, inasmuch as the original filing fees for the claims (which would be later prosecuted in divisional applications) are not refundable.

### CONCLUSION

In view of the foregoing, applicants respectfully request the Examiner to reconsider and withdraw the election requirement, and to examine the full scope of the claims pending in this application.

If the Examiner has any questions or wishes to discuss this matter, the Examiner is welcomed to telephone the undersigned attorney.

Respectfully submitted,

**THE NATH LAW GROUP**



Gary M. Nath  
Reg. No. 26,965  
Joshua B. Goldberg  
Reg. No. 44,126  
Sheldon M. McGee  
Reg. No. 50,454  
Customer No. 34375

Date: January 7, 2008  
**THE NATH LAW GROUP**  
112 South West Street

Alexandria, VA 22314  
Telephone: (703) 548-6284  
Facsimile: (703) 683-8396  
JBG/SMM\RRR.doc